

REMARKS/ARGUMENTS

By the present amendment, one (1) claim is amended, one (1) claim is cancelled, and one (1) dependent claim is added. Applicants appreciate rejoinder of all claims dependent on claim 2. Applicants hereby submit that no new matter has been added and no change in inventorship is believed to result from the amendments proposed herein. No fees for claims are believed payable.

Support for new claim 110 can be found in the specification as filed at page 22, lines 14-15.

The amendments proposed herein are made solely to expedite prosecution of various embodiments of the invention. Applicants expressly reserve the right to prosecute one or more cancelled claims or any subject matter enabled by the instant specification in one or more continuing applications.

RESPONSE TO OFFICE ACTION DATED NOVEMBER 4, 2005

I. Rejection under 35 U.S.C. § 112.

Claims 67-70 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards his invention. Applicants respectfully traverse this rejection.

The Examiner states that “claim 2 recites the fluid solvent as carbon dioxide” and that claims 68-69 are not further limiting. OA at 2. This is not correct. Claim 2 is not limited to carbon dioxide as the fluid solvent. Claim 2 recites that “...*when* the pressurized fluid solvent is liquid carbon dioxide, the liquid carbon dioxide is at a subcritical condition.” (emphasis added). Clearly, the pressurized fluid solvent can be other than liquid carbon dioxide. Withdrawal of this rejection is therefore respectfully requested.

Claim 70 is hereby cancelled rendering this rejection moot.

II. Rejection under 35 U.S.C. § 103.

Claims 2-3, 59-69, 71-77, 81-85, 88, and 109 stand rejected under 35 U.S.C. § 103(a). Applicants respectfully traverse this rejection.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to

combine the reference teachings. Second, there must be a reasonable expectation of success. That is, the hypothetical person of ordinary skill in the art, at the time the invention was made, must have had a reasonable expectation that the proposed modification or combination would work to produce beneficial results. Finally, the references when combined must teach or suggest all the claim limitations. *See* MPEP § 2143. The burden of establishing a *prima facie* case of obviousness lies with the Examiner, and both the suggestion and the expectation of success must be found in the prior art, not the applicant's disclosure." *In re Dow Chemical*, 5 USPQ 2d 1531 (Fed. Cir. 1988).

It is also well settled in the law that teaching away of prior art is a strong indication of nonobviousness. *See e.g. In re Soni*, 54 F.3d 746 (Fed. Cir. 1995). A reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference or would be led in a direction divergent from that which applicant took. *In re Gurley*, 27 F.3d 551 (Fed. Cir. 1994).

As will be discussed in detail below, Cauble teaches away from the claimed invention, as proposed to be amended herein, in at least two ways. Based on this teaching away, one of skill in the art would have been led in a direction divergent from that which Applicants took. Therefore, no *prima facie* case of obviousness exists.

A. Cauble teaches that any cleaning performed in its cleaning drum is performed in the *presence of liquid carbon dioxide*.

The Examiner states that Cauble does not specifically recite removal of contaminants by its pre-treating composition, but that "one would reasonably expect glycol ethers in...[Cauble's] pre-treating composition to also remove contaminants from the textile surface." Applicants object to this conclusion as an unsupported characterization of the level of ordinary skill in the art. Further, Applicants respectfully submit that this conclusion is not supported by either Cauble or Grunwalder and that no evidence exists of record that "pre-treatment," as that term is defined by Cauble, Col. 2, would remove any contaminant whatsoever. Grunwalder does nothing to indicate what the result of Cauble's "pretreatment" would be. In fact, by Cauble's own definition of the term "pretreatment", nothing is removed. Instead, according to Cauble, "pretreatment" involves only depositing the pretreatment on the article. Col. 2, lines 64 – Col. 3, line 4.

Nonetheless, even assuming, *arguendo*, that Cauble's "pretreatment" does involve contaminant removal, which is denied, Cauble still teaches away from Applicant's presently pending claims.

Claim 2 as amended herein (and all claims depending therefrom) require a step of "cleaning the substrates *in the perforated cleaning drum* in *absence of* pressurized fluid solvent..." (emphasis added). Cauble specifically teaches away from such a step. Cauble teaches that any optional pretreatment formulation is to be applied "to garments *prior to* their being deposited in the dry cleaning apparatus." (emphasis added) See Col. 8, lines 36-37. After pretreatment is performed outside of the cleaning drum, the article is then combined in the dry cleaning apparatus together with dry cleaning composition that, by Cauble's own definition, necessarily contains liquid carbon dioxide (Col 8. lines 39-41). Once a garment and liquid dry cleaning composition (containing liquid carbon dioxide) are combined in the drum, "[t]he article is *then* agitated in the drum...with the agitation carried out for a time sufficient to clean the fabric." (emphasis added, Col. 7, lines 3 – 7).

Therefore, according to the express teaching of Cauble, the garments are never even present in a cleaning drum in absence of liquid carbon dioxide cleaning composition, let alone cleaned *in the cleaning drum* and in *absence of liquid carbon dioxide*. Instead, Cauble teaches that any and all cleaning that occurs in a cleaning drum is necessarily performed in the *presence of*, not in the absence of, liquid carbon dioxide.

Cauble would therefore have led one of ordinary skill in the art, at the time of Applicants' invention, in a direction divergent from that which Applicants' took. As such, Cauble expressly teaches away from Applicants' presently claimed invention and, as such, no *prima facie* case of obviousness exists.

Conclusion: Cauble teaches away from Applicant's presently claimed invention. Teaching away is a *strong indication* of non-obviousness. *In re Soni, Supra*. Therefore, no *prima facie* case of obviousness has been established.

III. Interview Summary

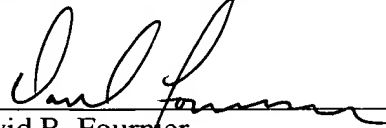
Applicants thank the Examiner for the courtesy of the telephonic interview of March 6, 2006. The Cauble reference was discussed. The Examiner indicated that claims 4-32, 78, 80,

86-87 would be allowable if rewritten in independent form. No agreement was reached on this point, however.

CONCLUSION

The pending claims are believed to be in condition for allowance. Early and favorable consideration is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David B. Fourmer", is written over a horizontal line.

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